

IT IS ORDERED

Date Entered on Docket: February 5, 2021



The Honorable Robert H Jacobvitz
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

IN RE:

ESTHER P. CATRON
SSN / ITIN: xxx-xx-4730

Debtors.

Case No. 13-17-12381-JA

**STIPULATED ORDER MODIFYING
AUTOMATIC STAY AND FOR ABANDONMENT OF PROPERTY**

THIS MATTER having come before the court on the Motion for Relief from Stay and for Abandonment of Property filed by Bank of New York Mellon Trust Company, N.A. as Trustee for Mortgage Assets Management Series I Trust (hereinafter referred to as “Creditor”), Debtor being represented by its attorney, Davis Miles McGuire Gardner, PLLC (Ronald E. Holmes), Creditor being represented by its attorneys, Rose L. Brand & Associates, P.C. (Elizabeth Dranttel), and the Court having considered the Motion and finding that Creditor is entitled to an Order modifying the automatic stay imposed by the filing of the bankruptcy action, Debtor, by

its counsel, and the Trustee, Tiffany M. Cornejo, consenting to the relief requested and the form of this Order, modifying the automatic stay and providing for abandonment in the event of default, the parties have agreed as follows:

Debtor will bring current her Adjustable Rate Note (Home Equity Conversion) and Adjustable Rate Home Equity Conversion Mortgage for the tax payment made by the Creditor on September 4, 2019, in the amount of \$1,464.73. Payments will be made by certified funds that include the Loan No 3044437 / Bankruptcy Case No 13-17-12381-JA and delivered to:

Bank of New York Mellon
C/o Celink
2900 Esperanza Crossing
Austin Tx 78758

The first payment of \$244.13 is due by March 1, 2021, the second payment of \$244.12 is due by April 1, 2021, the third payment of \$244.12 is due by May 1, 2021, the fourth payment of \$244.12 is due by June 1, 2021, the fifth payment of \$244.12 is due by July 1, 2021, and the final payment of \$244.12 is due by August 1, 2015. The total payment of \$1,464.73 is due by August 1, 2021.

If the Debtor does not adhere to the mortgage on the terms as provided in the Note and Mortgage and incurs any additional default, upon the filing of a Notice of Default executed by Creditor or its counsel, and mailed to Debtor and Debtor's counsel, the Debtor will have ten (10) days to cure the default. The Debtor will only receive two (2) such notices. If the Debtor defaults a third time, Creditor shall proceed directly to filing the Affidavit of Default. If the Debtor does not cure the default, within ten (10) days, upon the filing of an Affidavit of Default, the automatic stay in this case shall be terminated so that Creditor may exercise its remedies under state law including, but not limited to, the foreclosure of its mortgage against the property located at 4600 Forman Road SW, Albuquerque, New Mexico 87105.

In the event of default and notice to Trustee of default stating the terms of this agreement and said default of the terms, the Trustee shall immediately cease making payments to Creditor pursuant to the Debtor's Chapter 13 Plan, and future payments will only be made by the Trustee pursuant to an Amended Proof of Claim filed by Creditor for any unsecured deficiency balance, if any.

IT IS, THEREFORE, THE ORDER OF THIS COURT:

1. That the automatic stay imposed by the filing of the above-entitled and numbered cause of action as the same pertains to all the property described in the Mortgage, including but not limited to, certain real property located in the County of Bernalillo, State of New Mexico, and more particularly described as:

A certain tract of land situate in Section 14, Township 9 North, Range 2 East, N.M.P.M., being a portion of Lot Forty-Two (42) of SUNNY SUBURBS, a Subdivision in Bernalillo County, New Mexico, as the same is shown and designated on the Plat of said Subdivision, filed in the office of the County Clerk of Bernalillo County, New Mexico, on May 1, 1929, said tract being now known as Lot 42-A-1 and being more particularly described as follows:

Beginning at the Northeast corner of said tract, which is the Northeast corner of said Lot 42 of said SUNNY SUBURBS, a Subdivision; thence West 168.63 feet to the Northwest corner of said tract; thence South 106.69 feet to the Northwesterly corner, a point on the cul-de-sac of a private road; thence along the East line of said cul-de-sac, Southeasterly on curve, right, R-40 feet, 62.83 feet; thence East, 128.64 feet to the Southeast corner; thence North, 146.69 feet to the point of beginning.

including any improvements, fixtures, and attachments, such as, but not limited to, mobile homes. The property is more commonly known as 4600 Forman Road SW, Albuquerque, New Mexico 87105, and the stay will be lifted upon default and as set forth above and Creditor will be permitted to proceed to obtain possession of the collateral, listed in the Mortgage, in the event of

default of the terms of this Order. If there is a conflict between the legal description and the street address, the legal description shall control.

2. That upon default, the above premises will be abandoned pursuant to Section 554 of the Bankruptcy Code, and Creditor shall not be required to name the Trustee as a Defendant in its foreclosure action and may sell any of the collateral without further notice to the Debtor and the Trustee.

3. That upon default and notice to Trustee of default the payments to Creditor the Trustee shall cease making payments to Creditor pursuant to Debtor's Plan, and any future payment and/or deficiency owed by the Debtor to Creditor after sale of said collateral shall be set forth in an amended Proof of Claim filed by Creditor and shall be subject to the Bankruptcy Code should this bankruptcy continue. If the Note to Creditor is satisfied and any monies remain, such monies will be paid to the Trustee for the benefit of the estate.

4. That upon default, filing of the Affidavit of Default, and termination of the automatic stay, USCS Bankruptcy Rule 4001(a)(3)(1999) is not applicable and Creditor may immediately enforce and implement relief from the automatic stay and foreclose on the subject property.

**** END OF ORDER****

SUBMITTED BY:

ROSE L. BRAND & ASSOCIATES, P.C.

By /s/Elizabeth Dranttel e-signed
ELIZABETH DRANTTEL
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APPROVED BY:

DAVIS MILES MCGUIRE GARDNER, PLLC

By Approved via email 2.2.2021
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By Approved via email 2.3.2021
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Copied to:

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